IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2337 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHOBHNABEN JIVANLAL PANDYA - Petitioner(s)
Versus
STATE OF GUJARAT THROUGH SECRETARY & 3 - Respondent(s)

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Appearance :
MR MUKESH H RATHOD for Petitioner(s) : 1,
MS MAITHILI MEHTA, AGP for Respondent(s) : 1 - 3.
NOTICE SERVED for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 06/09/2006

ORAL JUDGMENT

1.By way of this petition under Article 226 of the Constitution of India the petitioner has prayed for an appropriate writ, order and/or direction directing the

respondents to give an employment to the petitioner on the basis of Government Circulars No. VR/1076/408/C/Sachivalaya, Gandhinagar dated 12.5.77 and 28.3.1978 and to grant her all consequential benefits flowing therefrom.

2. By way of this petition, the petitioner was claiming appointment on compassionate basis on the death of her husband who was serving as a Primary Teacher and who died while he was on service. Nobody has remained present on behalf of the petitioner. It is required to be noted that the husband of the petitioner has expired on 22nd May, 1989 and thereafter, the petitioner submitted an application for appointment on compassionate ground, however, the same was not decided and therefore, this Court directed the respondents to take an appropriate decision on the said application vide order dated 17th August, 1994 passed in Special Civil Application No.510 of 1994, however, as no decision was taken, the petitioner has preferred the present Special Civil Application.

3. It is required to be noted that the present Special Civil Application has come up for final hearing in the

year 2006 and after the death of the husband of the petitioner almost 18 years have passed. Under the circumstances, considering the recent judgment of the Hon'ble Supreme Court in case of ***State of J & K And Others V/s. Sajad Ahmed Mir*** reported in **(2006) 5 SCC P.766,** no order in favour of the petitioner to appoint her on compassionate ground can be passed after a period of almost 18 years of the death of her husband. In the aforesaid judgment, the Hon'ble Supreme Court has considered that if the order of appointment on compassionate ground is passed after a period of 12 years than the same will not be in consonance with the policy of the Government to make appointment on compassionate ground and the purpose for which, the policy is framed to make appointment on compassionate ground will be frustrated. Now, considering the aforesaid judgment of the Hon'ble Supreme Court, no relief is required to be granted in favour of the petitioner directing the respondents to appoint her on compassionate ground after a period of 18 years of the death of her husband.

4. Hence, the present Special Civil Application is required to be dismissed and is accordingly dismissed.

Rule is discharged. However, there shall be no order as to costs.

[M.R.SHAH, J.]

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